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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,686	10/11/2001	Jeffrey S. Hastings	22407-05490	1186

20306 7590 12/30/2004

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EXAMINER

MCCARTHY, CHRISTOPHER S

ART UNIT PAPER NUMBER

2113

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/976,686	<b>Applicant(s)</b> HASTINGS ET AL.	
	<b>Examiner</b> Christopher S. McCarthy	<b>Art Unit</b> 2113	

**-- Th MAILING DATE of this communication app ars on th cov r sh et with the correspond nc address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5-12,14-19 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-12,14-19 and 22-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/11/2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's amendments with respect to original claims 4, 13, and 21 have been considered but are rejected in view of the new ground(s) of rejection. Upon further examination of the Bizzarri reference, the prior objected to claims now stand rejected in their new form. The examiner regrets any inconvenience and offers the applicant future help to further expedite the prosecution of the application.

#### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5-12, 14-19, 22-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Bizzarri U.S. Patent 5,732,268.

As per claim 1, Bizzarri teaches a consumer electronic device, comprising: a network interface for communicating with a remote server; and a media storage for storing program code

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modules for controlling an operation of the consumer electronic device, the program code modules comprising: an error recovery module for utilizing the network interface to communicate with the remote server and attempt to recover from an error experienced by the consumer electronic device; and a monitoring module for monitoring the operation of the consumer electronic device and determining whether to activate the error recovery module (column 3, lines 44-60), wherein the media storage comprises a system area for storing the monitoring module and a control module for controlling the operation of the consumer electronic device; and an error recovery area for storing the error recovery module (column 3, line 44 – column 4, line 8), wherein the error recovery area comprises data modules for storing backup copies of the monitoring and control modules (column 3, line 66 – column 4, line 8); wherein the error recovery module is adapted to restore the monitoring and/or control modules from the data modules to the system area (column 4, lines 11-55).

As per claim 5, Bizzarri teaches the consumer electronic device of claim 1, wherein the error recovery module comprises: a network recovery module for downloading and installing new program code modules from the remote server (column 5, lines 26-29; column 7, lines 9-11).

As per claim 6, Bizzarri teaches the consumer electronic device of claim 1, wherein the network interface is adapted to communicate with a diagnostic server and wherein the error recovery module further comprises: a diagnostic module for communicating with the diagnostic server to diagnose the error experienced by the consumer electronic device (column 6, lines 21-26).

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As per claim 7, Bizzarri teaches the consumer electronic device of claim 1, wherein the error recovery module is adapted to: attempt a first-level solution to the error; and responsive to a failure of the first-level solution, attempt a second-level solution to the error (column 5, lines 29-42).

As per claim 8, Bizzarri teaches the consumer electronic device of claim 7, wherein the first-level solution comprises attempting to recover from the error by performing a minor repair on the program code modules stored by the media storage (column 4, lines 33-55).

As per claim 9, Bizzarri teaches the consumer electronic device of claim 7, wherein the second-level solution comprises activating a network recovery module for downloading program code modules from a remote server and installing the program code modules on the media storage (column 5, lines 26-28).

As per claim 10, Bizzarri teaches the consumer electronic device of claim 1, further comprising: a nonvolatile memory for storing the monitoring and/or error recovery modules (column 3, lines 44-60).

As per claim 11, Bizzarri teaches the consumer electronic device of claim 1, further comprising: a status module for displaying a status of the error recovery module (column 6, lines 14-19).

As per claim 12, Bizzarri teaches a method of attempting to resolve an error suffered by a consumer electronic device, comprising the steps of: attempting to diagnose the error; and attempting a solution to the diagnosed error suffered by the consumer electronic device, the attempt performed automatically responsive to a detection of the error (column 4, lines 19-32) wherein the step of attempting a solution to the diagnosed error comprises the step of: attempting

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to execute backup copies of program code modules for controlling the consumer electronic device stored on a media storage associated with the device (column 4, 19-28).

As per claim 14, Bizzarri teaches the method of claim 12, wherein the step of attempting a solution to the diagnosed error comprises the step of: downloading program code modules for controlling the consumer electronic device from a remote server in communication with the consumer electronic device (column 5, lines 26-28; column 7, lines 9-11).

As per claim 15, Bizzarri teaches the method of claim 12, wherein the step of attempting a solution to the diagnosed error comprises the steps of: attempting a first-level solution to the error; and responsive to a failure of the first-level solution, attempting a second-level solution to the error (column 5, lines 29-42).

As per claim 16, Bizzarri teaches the method of claim 15, wherein the step of attempting a first-level solution to the error comprises the step of: attempting to recover from the error by performing minor repairs on a media storage associated with the consumer electronic device (column 4, lines 33-55).

As per claim 17, Bizzarri teaches the method of claim 15, wherein the step of attempting a second-level solution to the error comprises the step of: activating a network recovery module for downloading program code modules from a remote server and installing the program code modules on a media storage associated with the consumer electronic device (column 3, lines 44-60; column 5, lines 26-28).

As per claim 18, Bizzarri teaches the method of claim 12, further comprising the step of: displaying a status of the consumer electronic device (column 6, lines 14-19).

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As per claim 19, Bizzarri teaches a computer program product comprising: a computer-usable medium having computer-readable code embodied therein for controlling an operation of a consumer electronic device having a network interface, the computer program product comprising: an error recovery module for utilizing the network interface to communicate with a remote server and attempt to recover from an error experienced by the consumer electronic device; and a monitoring module for monitoring the operation of the consumer electronic device and determining whether to activate the error recovery module (column 3, lines 44-60), wherein the computer-usable medium comprises: a system area for storing the monitoring module and a control module for controlling the operation of the consumer electronic device; and an error recovery area for storing the error recovery module (column 3, line 44 – column 4, line 8), wherein the error recovery area comprises data modules for storing backup copies of the monitoring and control modules (column 3, line 66 – column 4, line 8); wherein the error recovery module is adapted to restore the monitoring and/or control modules from the data modules to the system area (column 4, lines 11-55).

As per claim 22, Bizzarri teaches the computer program product of claim 19, wherein the error recovery module comprises: a network recovery module for downloading and installing new program code modules from the remote server (column 5, lines 26-28; column 7, lines 9-11).

As per claim 23, Bizzarri teaches the computer program product of claim 19, wherein the network interface communicates with a diagnostic server and wherein the error recovery module further comprises: a diagnostic module for communicating with the diagnostic server to diagnose the error experienced by the consumer electronic device (column 6, lines 21-26).

As per claim 24, Bizzarri teaches the computer program product of claim 19, wherein the error recovery module is adapted to: attempt a first-level solution to the error; and responsive to a failure of the first-level solution, attempt a second-level solution to the error (column 5, lines 29-42).

As per claim 25, Bizzarri teaches the computer program product of claim 24, wherein the first-level solution comprises attempting to recover from the error by performing minor repairs on the computer-readable code for controlling the operation of the consumer electronic device (column 4, lines 33-55).

As per claim 26, Bizzarri teaches the computer program product of claim 24, wherein the second-level solution comprises activating a network recovery module for downloading program code modules from a remote server and installing the program code modules on the computer-usable medium (column 5, lines 26-28).

As per claim 27, Bizzarri teaches the computer program product of claim 19, wherein the computer-usable medium further comprises: a nonvolatile memory for storing at least a portion of the monitoring and/or error recovery modules (column 3, lines 44-60).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bizzarri.

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As per claim 2, Bizzarri teaches the consumer electronic device of claim 1. Bizzarri does not explicitly teach wherein the consumer electronic device is a digital video recorder. "Official Notice" is taken that it would be obvious that a digital video recorder be utilized in the fault recovery system of Bizzarri. It would have been obvious that a digital video recorder be utilized in the fault recovery system of Bizzarri because Bizzarri teaches the advantages of his recovery process in any computer system and a digital video recorder utilizing a processor and memory constitutes a computer system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. McCarthy whose telephone number is (571)272-3651. The examiner can normally be reached on M-F, 9 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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December 17, 2004



SCOTT BADERMAN  
PRIMARY EXAMINER